



HC Rules 3 Ancient Burhanpur Monuments are Not Waqf Property

[Source: IE](#)

Why in News?

Recently, the **Madhya Pradesh High Court** declared that three ancient monuments located in Burhanpur, including the **Bibi Sahiba's Mosque (Bibi ki Masjid)**, are **not Waqf board property**.

- This decision, which supports the stance of the [Archaeological Survey of India \(ASI\)](#), was based on the assertion that these sites are protected under the **Ancient Monuments Preservation Act, 1904**.

What are the Contested Sites?

- **Shah Shuja Monument:** Houses the tomb of Begum Bilqis, wife of Mughal Emperor **Shah Jahan's** son, Shah Shuja. Known as **Kharbuza Mahal**, it is built of stone and plastered with shell mortar, decorated with paintings.
- **Tomb of Nadir Shah:** A massive tomb supported on eight archways, mistakenly marked as the tomb of 'Nadir Shah' but actually belongs to **Muhammad Shah Faruqi II (974-84/1566-76 Ce)**, the tenth Sultan of the Faruqi lineage.
- **Bibi Sahiba's Mosque (Bibi ki Masjid):** Completed by **Queen Begum Rokeya**, daughter of **Gujarat Sultan Muzaffar Shah II**, around 1529. It was commissioned due to the populous northern part of Burhanpur during the 15th century.

What was the Archaeological Survey of India Argument?

- The **ASI** argued that the sites in question are ancient and protected monuments under the Ancient Monuments Preservation Act, 1904.
 - As per **Section 11** of the Ancient Monuments Preservation Act, 1904, the **Commissioner is the guardian of the monument** and has access to the monument at all reasonable times for inspection and maintenance.
 - Unless the guardianship is relinquished under **Section 14 of the Act, the monument cannot be declared as a waqf property.**
 - The **ASI asserted that once a property is declared an ancient and protected monument, it cannot be declared as a Waqf property.**
- According to ASI, the Waqf Board's declaration in 2013 was a **material illegality** since the properties cannot be classified as Waqf once they are protected monuments.

What did the Madhya Pradesh High Court Rule?

- The court ruled that the **Shah Shuja monument, Tomb of Nadir Shah, and Bibi Sahiba's Masjid in Burhanpur are not part of Waqf board property.**
 - The court emphasised that the properties had been declared ancient monuments long before the commencement of the Waqf Act and thus could not be classified as existing Waqf properties.

- Justice stated that the Waqf Board committed a material illegality by declaring these sites as Waqf property and directing the petitioner to vacate them.
- **Implications:** The ruling **reinforces the protection of ancient monuments under the Ancient Monuments Preservation Act, 1904.**
 - It clarifies that properties already under government ownership and protection cannot be reclassified as Waqf properties by the Waqf Board.
 - Ensures the continued maintenance and protection of these historical sites by the ASI.

Note

State/union territory (UT) Waqf Boards are the organisation established in every State/UT under **The Waqf Act 1995**, for the management of Waqf Properties in that State/UT.

- The State/UT Waqf Board deals with the religious, social and economic life of Muslims.
- **Central Waqf Council** is a statutory body under the administrative control of the **Ministry of Minority Affairs** was set up in 1964 as per the provision given in the **Waqf Act, 1954** as **Advisory Body to the Central Government** on matters concerning the **working of the Waqf Boards.**

Archaeological Survey of India

- The ASI under the Ministry of Culture is the premier organisation for archaeological research and protection of the **cultural heritage of the nation.**
- Maintenance of ancient monuments and archaeological sites and remains of national importance is the prime concern of the ASI.
 - Besides, it regulates all archaeological activities in the country as per the **provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958.** It also regulates the **Antiquities and Art Treasure Act, 1972.**
- It was founded in 1861 by **Alexander Cunningham- the first Director-General of ASI.** Alexander Cunningham is also known as the **“Father of Indian Archaeology”.**

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

Q. With reference to the cultural history of India, consider the following statements: (2018)

1. White marble was used in making Buland Darwaza and Khankah at Fatehpur Sikri.
2. Red sandstone and marble were used in making Bara Imambara and Rumi Darwaza at Lucknow.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (b)

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